

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

AMERICAN HALLMARK INSURANCE  
COMPANY OF TEXAS, a foreign insurer;

Plaintiff,

v.

CHRISTIAN BECK, individually, SCOTT  
HOLLAND, individually, DANNA  
HOLLAND, individually, RHINE  
DEMOLITION LLC, a Washington  
corporation, RHINE GROUP INC., a  
Washington corporation, RON SPARKS INC.,  
a foreign for-profit corporation, GM  
NORTHRUP CORPORATION, a Minnesota  
corporation, O'REILLY AUTOMOTIVE  
ENTERPRISES, LLC, a foreign for-profit  
corporation, and O'REILLY AUTOMOTIVE  
STORES, INC., a foreign for-profit  
corporation,

Defendants.

No. 3:22-cv-5565

**MOTION TO TAX COSTS/BILL OF  
COSTS**

**NOTE ON MOTION CALENDAR:  
August 25, 2023**

Pursuant to Fed. R. Civ. P. 54(d)(1), LCR 54(d)(1), and 28 U.S.C. § 1920, Plaintiff American Hallmark Insurance Company of Texas (hereinafter "Hallmark") respectfully requests this Court order as costs taxed against Defendants GM Northrup Corporation, O'Reilly Auto Enterprises, O'Reilly Auto Stores, Rhine Demolition, and Rhine Group in the amounts set forth below and in the accompanying Bill of Costs.

1 **A. Judgment**

2 On July 19, 2023, this Court entered granted Summary Judgment in favor of Hallmark  
3 ruling that Hallmark did not owe a duty to defend or indemnify Defendant GM Northrup  
4 Corporation for the claims against it in the underlying lawsuit of *Christian Beck et al v. Rhine*  
5 *Demolition LLC, et al.*, Pierce County Superior Court Cause No. 20-2-07117-5 (the “Underlying  
6 Suit”). Dkt. 38. The Order also stated that the case was closed as a result. Dkt. 38 at 7:7-9. As a  
7 result, this Court entered a Judgment in a Civil Case in favor of Hallmark. Dkt. 29.

8 Accordingly, Hallmark is the prevailing party under Fed. R. Civ. P. 54(d)(1). Rule 54(d)(1)  
9 states that “[u]nless a federal statute, these rules, or court order provides otherwise, costs—other  
10 than attorney’s fees—should be allowed to the prevailing party.” The rule creates a presumption  
11 in favor of the prevailing party—Hallmark—being awarded its costs, and that “costs are to be  
12 awarded as a matter of course in the ordinary case.” *Association of Mexican-American Educators*  
13 *v. California*, 231 F.3d 572, 593 (9th Cir. 2000).

14 **B. Taxable Costs**

15 Under 28 U.S.C. § 1920, enumerated taxable costs include (1) fees of the clerk and marshal;  
16 and (5) docket fees under 28 U.S.C. § 1923. The following costs items are set forth in the attached  
17 Bill of Costs.

18 **1. Fees of the Clerk**

19 Hallmark requests as costs the filing fee for this action. A “filing fee is a ‘fee of the clerk’  
20 which is typically allowed as part of costs under Section 1920.” *Card v. State Farm Firm &*  
21 *Casualty Co.*, 126 F.R.D. 658, 660 (N.D. Miss. 1989), *aff’d*, 902 F.2d 957 (5th Cir. 1990). As set  
22 forth in the Bill of Costs, the filing fee paid by Hallmark totals **\$402.00**. This fee should be  
23 attributed to Defendant GM Northrup Corporation alone. *See* Bill of Costs. *See also* Declaration  
24

of Kevin J. Kay (“Kay Decl.”) at ¶2; Ex. A to Kay Decl.

## 2. Fees for service of subpoenas

Hallmark further requests as costs the fees for service of the Summons and Complaint on Defendants O’Reilly Auto Enterprises, LLC, O’Reilly Auto Stores, Inc., Rhine Demolition, LLC, and Rhine Group, LLC. “Private process servers’ fees are properly taxed as costs.” *Alflex Corp. v. Underwriters Labs., Inc.*, 914 F.2d 175, 178 (9th Cir. 1990) *cert. denied*, 502 U.S. 812, 112 S.Ct. 61, 116 L.Ed.2d 36 (1991). The statute, 28 U.S.C. § 1920(1), “allows ‘fees of the clerk and marshal’ to be taxed as costs,” *id.*, and because the Marshal “is no longer involved as often in the serving of summonses and subpoenas, the cost of private process servers should be taxable under 28 U.S.C. § 1920(1).” *Id.*

As set forth in the corresponding Kay Decl. and the attached exhibit, Hallmark effectuated service on the O’Reilly Auto defendants on January 10, 2023. Service on Defendant O’Reilly Auto Enterprises cost a total of \$83.50. Likewise, service on Defendant O’Reilly Auto Stores cost a total of \$83.50. Kay Decl. at ¶3-4; Ex. A to Kay Decl.

Service on the Rhine defendants was effectuated on January 11, 2023. The cost of service on Defendant Rhine Demolition cost a total of \$78.50. Likewise, service on Defendant Rhine Group cost a total of \$78.50. Kay Decl. at 5-6; Ex. A to Kay Decl.

The total amount of summons service fees requested by Hallmark is **\$324.00**. These services fees should be paid by the corresponding Defendants named above.

## 3. Docket fees under 28 U.S.C. § 1923

Hallmark also requests as costs the docket fees for its Motion for Summary Judgment. Dkt. 30. Under 28 U.S.C. § 1920(5) and 28 U.S.C. § 1923(a), certain attorney and proctor fees may be taxed. This includes motions for judgment, which may be taxed as costs of \$5.00. *See* 28 U.S.C. §

1 1923(a).

2 Consequently, Hallmark requests **\$5.00** as docket fees for its Motion for Summary  
3 Judgment. This fee should be attributed to Defendant GM Northrup Corporation alone. *See* Kay  
4 Decl. at ¶7.

5 **C. Summary**

6 As demonstrated above and supported by the Declaration of Kevin J. Kay accompanying  
7 this motion with attached records, and the accompanying Bill of Costs, Hallmark seeks a total of  
8 **\$407.00** taxed against Defendant GM Northrup Corporation as costs for filing fees and docket  
9 fees.

10 Hallmark seeks **\$83.50** taxed against Defendant O'Reilly Auto Enterprises, LLC, as costs  
11 for services of summons. Additionally, Hallmark seeks **\$83.50** taxed against Defendant O'Reilly  
12 Auto Stores, Inc. as costs for services of summons.

13 Further, Hallmark seeks **\$78.50** taxed against Defendant Rhine Demolition, LLC, as costs  
14 for services of summons. Finally, Hallmark seeks **\$78.50** taxed against Defendant Rhine Group,  
15 LLC, as costs for services of summons.

16 **D. Conclusion**

17 For the reasons set forth above, Hallmark respectfully requests that this Court tax costs as  
18 set forth above and in the accompanying Bill of Costs and Kay Decl. with exhibit thereto.

19 DATED this 9th day of August 2023.

20 LETHER LAW GROUP

21 /s/ Kevin J. Kay

22 Thomas Lether, WSBA #18089

23 Eric J. Neal, WSBA # 31863

24 Kevin J. Kay, WSBA # 34546

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6 *of Texas*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies under the penalty of perjury under the laws of the State of Washington that on this date I caused to be served in the manner noted below a true and correct copy of the foregoing on the parties mentioned below as indicated:

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Dated this 9th day of August 2023 at Seattle, Washington.

/s/ Jessica Bowman  
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